

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

MICHAEL JEFFRIES,)	
)	
Petitioner,)	
)	
v.)	Case Number CIV-05-1043-C
)	
RANDALL G. WORKMAN, Warden,)	
et al.,)	
)	
Respondents.)	

MEMORANDUM OPINION AND ORDER

Now before the Court is a Petition for Writ of Habeas Corpus filed by Petitioner Michael Jeffries (Jeffries) under 28 U.S.C. § 2254. Consistent with 28 U.S.C. § 636(b)(1)(B), the Court referred the Petition to Magistrate Judge Gary Purcell who, in turn, entered a Report and Recommendation (R&R) on September 13, 2005. Judge Purcell recommended that Jeffries' Petition be dismissed as untimely. Jeffries did not file an objection. After thorough consideration of the R&R and the applicable law, the Court respectfully declines to adopt the R&R. See 28 U.S.C. § 636(b)(1).

In 1988, Jeffries received a life sentence after pleading guilty to armed robbery after conviction of two or more felonies. Jeffries filed a § 2254 habeas corpus petition in this Court on April 17, 1997 (Pet., Dkt. No. 1, Case No. CIV-97-580-C), which the Court denied (Order, Dkt. No. 11). He filed the current § 2254 petition without obtaining the Tenth Circuit's authorization to do so. 28 U.S.C. § 2244(b)(3)(A). As a result, the Court is without jurisdiction to adjudicate the petition and must transfer the petition to the Tenth Circuit.

Lopez v. Douglas, 141 F.3d 974, 975-76 (10th Cir. 1998) (vacating district court's order for lack of jurisdiction due to petitioner's failure to obtain Tenth Circuit authorization to file a second § 2254 habeas petition); Coleman v. United States, 106 F.3d 339, 341 (10th Cir. 1997) (holding district court must transfer an unauthorized second § 2254 habeas petition to Tenth Circuit).

The Court declines to adopt the Report and Recommendation of the Magistrate Judge and instead transfers Jeffries' second Petition for Writ of Habeas Corpus [Dkt. No. 1] to the Tenth Circuit to be considered a request for an order authorizing the Court to consider the petition. The Clerk of the Court is directed to take the necessary steps to accomplish the transfer.

IT IS SO ORDERED this 3rd day of November, 2005.



ROBIN J. CAUTHRON
United States District Judge